

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

(1) KARRI KALFAS,)	
)	
Plaintiff,)	
)	
vs.)	Case No. 17-CV-00497-JED-MJX
)	
)	(Case No. CJ-2017-03006, District
)	Court of Tulsa County, State of
)	Oklahoma, Judge Nightingale)
(1) SHADOW MOUNTAIN BEHAVIORAL)	
HEALTH SYSTEM,)	
(2) UNIVERSAL HEALTH SERVICES, INC.,)	
(3) MICHAEL KISTLER,)	
(4) SHARON WORSHAM, and)	
(5) JORDAN COOKE,)	
)	
Defendants.)	

JOINT NOTICE OF REMOVAL

Defendants Shadow Mountain Behavioral Health System, Universal Health Services, Inc., Michael Kistler, Sharon Worsham and Jordan Cooke (collectively referred to herein as "Defendants"), pursuant to 28 U.S.C. §§ 1331, 1441 and 1446, hereby remove this action from the District Court of Tulsa County to the United States District Court for the Northern District of Oklahoma. As the grounds for removal, the Defendants state as follows:

1. On August 1, 2017, Plaintiff filed a Petition in the District Court of Tulsa County, State of Oklahoma, against the Defendants. The case was assigned No. CJ-2017-03006.
2. A copy of the Petition is attached to this Notice as Exhibit 1. True and correct copies of service received by Defendants are attached hereto as Exhibit 2. A copy of the state court docket sheet for this action is attached as Exhibit 3. Defendant Michael Kistler has not yet received service.

3. Defendants have not yet filed responsive pleadings in the District Court of Tulsa County. By filing this Joint Notice of Removal, Defendants do not waive any defense or counterclaim that may be available to the Defendants.

4. Pursuant to 28 U.S.C. § 1441(a), “any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the Defendant or Defendants, to the district court of the United States for the district and division embracing the place where such action is pending.”

5. This Court has original jurisdiction over this action pursuant to 28 U.S.C. § 1331. The Petition alleges civil actions arising out of alleged violations of federal law. Specifically, Plaintiff’s Petition alleges that Plaintiff was employed by Defendant Shadow Mountain, that Defendant Shadow Mountain violated federal laws including illegal Medicare billing practices, that Plaintiff acted as a whistleblower by reporting illegal Medicare billing practices, and that Plaintiff was allegedly terminated for her reporting of legal violations, including illegal Medicare billing practices (*See* Ex. 1, ¶¶ 10-11, 13, 15). Plaintiff’s Petition clearly seeks to enforce Plaintiff’s purported protections under the Federal Claims Act pursuant to 31 U.S.C. § 3730(h). *See Cassel v. WEBCO Indus., Inc.*, 942 F. Supp. 1409, 1411 (N.D. Okla. 1996) (federal question may exist “despite the lack of any direct assertion of a violation of federal law in the original pleading filed in state court.”).

6. Removal of this action from the District Court of Tulsa County, State of Oklahoma, to this Court is therefore proper under 28 U.S.C. § 1441, because this Court would have had original jurisdiction of the action under 28 U.S.C. § 1331 had the action been initially filed in this Court.

7. Therefore, Plaintiff's Petition alleges both that federal law creates her right to relief and that Plaintiff's right to relief depends on the resolution of substantial questions of federal law. *Gilmore v. Weatherford*, 694 F.3d 1160, 1170 (10th Cir. 2012) (quoting *Empire Healthchoice Assurance, Inc. v. McVeigh*, 547 U.S. 677, 690 (2006)) (a claim "arises under" federal law when "a well-pleaded complaint establishes either that federal law creates the cause of action or that the plaintiff's right to relief necessarily depends on resolution of a substantial question of federal law.").

8. This Court also has jurisdiction over the remainder of Plaintiff's claim under 28 U.S.C. § 1337 because they "are so related to claims in the action within such original jurisdiction that they form part of the same case or controversy." Indeed, Plaintiff's state law claim is largely based on the same conduct and out of the same transactions as the federal claims. *See generally*, Ex. 1. Therefore, all of Plaintiff's claims "derive from a common nucleus of operative fact" and are appropriately within the jurisdiction of this Court. *See Price v. Wolford*, 608 F.3d 698, 703 (10th Cir. 2010) ("A claim is part of the same case or controversy if it derives from a common nucleus of operative fact.") (internal quotations omitted).

9. This Notice of Removal is timely filed pursuant to 28 U.S.C. § 1446(b).

10. Written notice of filing of this Notice of Removal will be given to Plaintiff, by and through her counsel of record. A copy of this Notice will be filed with the Clerk of the District Court of Tulsa County, State of Oklahoma.

11. Pursuant to 28 U.S.C. § 1446(a) and LCvR 81.2, all documents filed or served in the state-court action, along with a copy of the docket sheet, are attached as Exhibits 1, 2, and 3.

12. Defendants will file a Status Report on the Removed Action in accordance with LCvR 81.2.

WHEREFORE Defendants respectfully request that the above referenced action now pending in the District Court of Tulsa County, State of Oklahoma, be removed therefrom and proceed in this Court as an action duly removed from this day forward.

Respectfully submitted,

s/Charles S. Plumb

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CERTIFICATE OF SERVICE

I hereby certify that on August 30, 2017, I electronically transmitted the attached document to the Clerk of the Court using the ECF System for filing. Based on the records currently on file, the Clerk of Court will transmit a Notice of Electronic Filing to the following registrants:

Paula J. Quillin
Jeremy K. Ward
Alexander J. Sisemore

s/Charles S. Plumb